

PATENT**ATTORNEY DOCKET NO.: W1200-00034****III. Remarks**

Claims 1-6, 8-30 and 92-126 are pending in the present application.

Applicants are grateful to the Examiner for allowing Claims 8 and 126.

Claim 122 has been amended to correct a typographical error reciting "method system."

Claim 26 has been amended, as discussed in more detail below, to emphasize that races are distinguished from each other in the track board and that user is prompted to select a race from a track in the listing from the track board. Claims 26 and 117 have also been amended to clarify that each of the plurality of tracks includes a plurality of races displayed in the track board.

A. Rejection under 35 U.S.C. § 103

The Action rejects Claims 26-30, 117-121 and 124-125 as being obvious from Marshall et al. (US 2005/0208995) in view of Thomas et al. (US 2001/0034268). Reconsideration of this rejection is requested in view of the following arguments.

Claim 26 is directed to a method of providing wagering data for a race contest to a user through a computer network. The user is prompted to select a date in response to which a "track board" is transmitted and displayed to the user. The track board includes (i) a listing of tracks and (ii) a listing of a plurality of races at each of the tracks for a date selected by the user. An example of a track board is shown in FIG. 7, which lists thirteen tracks and several races for each track.

Because the track board is preferably used as an aid to a wagerer and because the track board lists multiple tracks and multiple races at each track, the track board distinguishes the races from each other in three status classes of interest to the wagerer: (i) completed, (ii) open for wagering and (iii) not yet open for wagering.

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Still further, as a further aid to the wagerer, the user of the track board is prompted to select one of the races from a track in the track board. Based on the selection, three distinct categories of data can be provided. If the status of the race is "completed," results data are displayed for the selected race. If the status of the selected race is "open for wagering," race program data for the race are displayed. Finally, if the status of the selected race is "not yet open for wagering," race entry data are displayed to the user.

Though Applicants submit this was clear before, Claim 26 has been amended as set forth above to emphasize that the races are distinguished within the track board by these statuses and the race is selected by the user from the track board.

As discussed below, the combination of Marshall and Thomas does not teach this claimed method of providing wagering data.

In rejecting Claim 26, the Examiner first relies on the description of Marshall, specifically FIGS. 93-99. These figures are described in Marshall from Paragraphs 127-131. FIG. 91 shows a flow chart for the options presented to the user by in the selection screen of FIG. 92, namely "schedule," "results," "news" and "weather." For purposes of discussing Claim 26, the "news" and "weather" options are of no interest. If the "schedule" option is selected from the selection screen of FIG. 92, the schedule screen of FIG. 93 is displayed. As described in Paragraph 127, the user selects a day for which racing schedule information is desired. Once a day is selected, "window 9206 displays the racing schedule information for the selected day." More specifically though, window 9206 only displays the first race time for each available track. (See. FIG. 93).

If the user selects the "results" option from FIG. 92, the user proceeds through FIG. 94 (to select a track), FIG. 95 (to select a race) and FIG. 96 (to display the results).

From the foregoing, Marshall does not transmit a track board as claimed in Claim 26 for display to the user in response to a selection of a date by the user. The "schedule" and "results"

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options of Marshall are part of different process flows (See FIG. 91). The only information that is displayed or changed after a user selects a date is in window 9206 of the screen of FIG. 93. Window 9206, however, is not a track board as claimed. The purpose of window 9206 is to show the start times of the first races of each track. It does not display a plurality of races for each track (as there can only be one first race for each track). Therefore, there is no need to distinguish races as (i) completed, (ii) open for wagering and (iii) not yet open for wagering as claimed in Claim 26, nor can the user select individual races from the screen of FIG. 93 in order to display results data, race entry data or program data, as appropriate. For example, results are obtained from a separate process flow including FIGS. 94-96 as described below.

Turning to the "results" process flow of Marshall, screen 9400 of FIG. 94 displays race tracks, but only the post time for the first race at each track. Again, there is no need to distinguish races from each other in such an interface and the user cannot select a race to obtain information directly from this interface. The results display interface of FIG. 95 displays all of the races for only one track. Further, paragraph 128 makes clear that "[b]ecause the user is seeking to display results, preferably only races that have been completed may be selected."

From the foregoing, it is clear that Marshall does not display a comprehensive track board as claimed with multiple races at multiple tracks, nor a board that distinguishes races as claimed, nor a board that allows for selection of a race to display data as claimed. As discussed below, Thomas does not cure the deficiencies of Marshall.

In the Action, the Examiner concedes that Marshall does not teach "[d]istinguishing the races from each other to the user by status as completed, open for wagering, and displaying race program data for a race selected by the user to the user with the user terminal if the status of the selected race is open for wagering." The Examiner then relies on Thomas.

Turning to Thomas, the disclosure of Thomas is primarily directed to interfaces for placing a wager on a racing event. The Examiner relies on FIGS. 4A and 4B for teaching

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distinguishing "the races from each other to the user by status as completed and open for wagering" and "displaying race program data for a race selected by the user to the user with the user terminal if the status of the selected race is open for wagering."

Initially, Applicants would like to point out that Claim 26 requires that the races displayed in the track board be distinguished based on three different statuses: (i) completed, (ii) open for wagering and (iii) not yet open for wagering. Though Applicants dispute that Thomas teaches what the Examiner alleges, as discussed below, the Examiner has failed to allege or show that Thomas or the combination of Thomas and Marshall distinguish races based on these three statuses, i.e., the Examiner has only alleged distinction based on "completed" and "open for wagering." Therefore, it is submitted that the Examiner has failed to set forth a *prima facie* case of obviousness.

Turning more specifically to the disclosure of Thomas, the EasyBet screen 100 of FIG. 4A is used by novice betters to place a wager. The interface screen 100 lists the "current race" at each track along with its post time and the "track status." The "track status" column is introduced in Paragraph 85 of Thomas but its meaning is not explained. It is also not explained in the provisional application from which Thomas claims priority. It is submitted that "track status" merely shows whether the track is open or closed, otherwise it would be redundant to "current race" information. The "current race" column shows only one race for each track, i.e., the next race and its post time. The display does not show multiple races from each track, with distinguishing statuses between these races, nor does the display distinguish these "current races" from each other in any way as they would surely share the same status.

From FIG. 4A, the user selects a single track and the display of FIG. 4B is displayed. (Par. 87). The screen 160 of FIG. 4B displays multiple races for only a single track and their post times. Again, the status of the "track" is shown, but no distinctions are made between the races. Individual races can be selected to place a wager (FIG. 4C).

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From the foregoing, it is submitted that Thomas does not teach or suggest distinguishing races from each other based on (i) completed, (ii) open for wagering and (iii) not yet open for wagering. Further, Thomas does not teach or suggest distinguishing races from both the same track and different tracks together in this manner in a single interface.

From the foregoing, it is submitted that the combination of Thomas and Marshall does not provide a method where a track board is displayed in response to a selection of a date by a user where the track board displays a plurality of tracks and a plurality of races at each track, where the races are distinguished from each other based on (i) completed, (ii) open for wagering and (iii) not yet open for wagering, nor does the combination teach or suggest that results data, race entry data and race program data, as the status may be, can be displayed using such a track board by selection of a race using the track board.

It is also submitted that even were Thomas to somehow fill the deficiencies identified by the Examiner in the disclosure of Marshall (which Applicants traverse as set forth above), one of ordinary skill would not be motivated to so modify Marshall. Marshall teaches a methodology where results and schedule information are obtained separately from different interfaces. (See FIGS. 91 and 92). Further, the schedule information (window 9206) of Marshall is limited to only the first race at each track, meaning there is no need whatsoever to distinguish the races from each other by status. Further, individual races cannot be selected directly from the displayed schedule of Marshall for any purpose.

For at least these reasons it is submitted that Claim 26 is not obvious from the cited references and is allowable thereover, along with the claims that depend therefrom.

Independent Claim 117 is directed to a system for providing wagering data that parallels features of Claim 26. For at least the reasons set forth above, it is submitted that Claim 117 is allowable over the art of record, along with the claims that depend therefrom.

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Applicants would also like to point out some inconsistencies in the rejection. For example, though the Action purportedly rejects Claims 26-30 and 117-121 as being obvious from Marshall in view of Thomas, Claims 28 and 120 are not addressed in this rejection.¹ It is submitted that the Examiner cites to no support in either Thomas or Marshall for the features of Claims 28 and 119 where the races' statuses are distinguished by color.

Further, The Examiner alleges in connection with the rejection of Claim 29 that Marshall distinguishes races from each other to the user by status as "closed for wagering with no results available," "open for wagering with live odds available" and "open for wagering with no live odds available." (Action, Page 3, second full paragraph) Clearly, distinguishing races by these additional statuses is inconsistent with the Examiner's concession that Marshall does not distinguish races from each other as "completed" and "open for wagering" in Paragraph 1 of the Action, Page 4.

In conclusion, it is again submitted that the claims are allowable over the cited references as set forth above.

The Action also contains a rejection of Claims 1-6, 9-30, 92-97 and 100-123 as being unpatentable over Marshall in view of Thomas as applied to Claims 26 and 117 in further view of Brenner et al. (6,089,981) and Boylan, III et al. (6,712,701). It is unclear whether the Examiner meant to exclude Claims 26-30 and 117-121 from this four way obviousness rejection, as these claims were rejected based on the combination of Thomas and Marshall as discussed at length above. Applicants believe that the Examiner only intended to reject using this four way combination of references the claims that were not addressed above, particularly since these claims, except for Claim 28, are not specifically addressed in the text of this second § 103 rejection.

¹ Claim 119 actually contains the features that parallel Claim 28, not claim 120, though the Examiner lists the features of Claim 120 in connection with the rejection of Claim 119.

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Therefore, as independent Claims 26 and 117 are allowable over the cited art as discussed above, reconsideration and withdrawal of this rejection are respectfully requested.

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In view of the foregoing remarks and amendments, Applicants submit that this application is in condition for allowance at an early date, which action is earnestly solicited.

The Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account 04-1679.

Respectfully submitted,

Dated:

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